

Agenda

Item #7



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

November 1, 2010

By Certified and Regular Mail

Kathy Crafts, Treasurer
Seacoast Democrats
647 US Route 1, Unit 14-121
York, Maine 03909

Re: Late filing of 11-day pre-general campaign finance report for Seacoast Democrats

Dear Ms. Crafts:

The 11-day pre-general campaign finance report for the above mentioned party committee was received by our office on October 29, 2010. These reports were due on October 22, 2010 by 11:59 pm.

Penalties for late reports are based on the amount of financial activity during the filing period, the number of calendar days a report is filed late, and the committees filing history. Based on this formula the penalty for the late filing is \$408.52. Please refer to the enclosed penalty matrix for more information.

If you believe you have a valid reason for filing late, you may request that the Commission review your case make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receiving this notice, beginning the day you sign for receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period will begin on the day the post office indicates that it gave first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear before the Commission at the next regularly scheduled meeting. You may appear before the Commission personally, designate a representative to appear on your behalf, or submit a written statement in which you provide an explanation of the mitigating circumstances you wish the Commission to take into consideration. The Commission will notify you of the disposition of your case within 10 days after its determination.

Please direct any questions you may have about this matter to me at 287-6221.

Sincerely,

Cindy Sullivan
PAC, Party & Lobbyist Registrar

Enclosure: (1)

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE PARTY COMMITTEE REPORT FILINGS

BASIS FOR PENALTIES 21-A M.R.S.A. Section §1020-A

Committee Name:	Seacoast Democrats	Report Title:	11-Day Pre-General
		Due Date:	October 22, 2010
Previous Violation(s):	0	Filed Date:	October 29/2010

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%
 For the second violation, 3%
 For the third and each subsequent violation, 5%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Penalty Example:	Your Penalty is calculated as follows:				
The treasurer files the party's report two (2) days late. The party has not had any previous late violations this biennium. The party reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is					
<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: right;">\$2,500</td> <td>Greater amount of the total contributions received or expenditures made during the filing period</td> </tr> </table>	\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Contributions / Expenditures:</td> <td style="width: 50%; text-align: right;">\$5,836.45</td> </tr> </table>	Contributions / Expenditures:	\$5,836.45
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Contributions / Expenditures:	\$5,836.45				
	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Percent Prescribed:</td> <td style="width: 50%; text-align: right;">1%</td> </tr> </table>	Percent Prescribed:	1%		
Percent Prescribed:	1%				
<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: right;">X .01</td> <td>Percent prescribed for first violation</td> </tr> </table>	X .01	Percent prescribed for first violation	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;"></td> <td style="width: 50%; text-align: right;">\$58.36</td> </tr> </table>		\$58.36
X .01	Percent prescribed for first violation				
	\$58.36				
<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: right;">\$25.00</td> <td>One percent of total contributions</td> </tr> </table>	\$25.00	One percent of total contributions	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Number of days late:</td> <td style="width: 50%; text-align: right;">7</td> </tr> </table>	Number of days late:	7
\$25.00	One percent of total contributions				
Number of days late:	7				
<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: right;">X 2</td> <td>Number of calendar days late</td> </tr> </table>	X 2	Number of calendar days late			
X 2	Number of calendar days late				
<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: right;">\$50.00</td> <td>Total Penalty</td> </tr> </table>	\$50.00	Total Penalty	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Total penalty accrued:</td> <td style="width: 50%; text-align: right;">\$408.52</td> </tr> </table>	Total penalty accrued:	\$408.52
\$50.00	Total Penalty				
Total penalty accrued:	\$408.52				

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1020(5-A)(D)

\$500 for municipal, district and county committees

RECEIVED

NOV 19 2010

November 18, 2010
Maine Ethics Commission

Cindy Sullivan
PAC, Party & Lobbyist Registrar

Re: Late filing of 11-day pre-general campaign finance report for Seacoast Democrats

Dear Ms. Sullivan:

I am in receipt of your letter detailing the penalty for our late filing of the above referenced report.

When I received your call on October 28th alerting me to our mistake, I immediately proceeded to fill out the report and submitted it on October 29th. I was horrified that in all the years of our organization I had now missed a deadline to the Commission. My excuse for such an oversight is that our organization and I were deeply involved in our regional get out the vote effort and we just forgot. In my mind I was thinking that January was the next deadline so it was not on my list of things to do at the time.

I respectfully ask the Commission to consider waiving the \$408.52 penalty, as it is our first offence. We will put in place a reminder system so we do not forget our next filings, especially in an election year.

Thank you for working with us on this matter.

Sincerely,

Lydia Blume, Executive Director
Seacoast Democrats
647 US Route 1, Unit 14-121
York, Maine 03909



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

November 19, 2010

Lydia Blume
Executive Director
Seacoast Democrats
647 US Route One, Unit 14-121
York, ME 03909

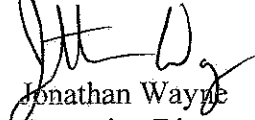
Dear Ms. Blume:

Thank you for requesting a waiver of a late-filing penalty. Your request will be considered by the members of the Ethics Commission at their next meeting on Tuesday, November 30, 2010 at 11:00 a.m. The meeting will be held at our office at 45 Memorial Circle, 2nd floor, Augusta, Maine. You are welcome to attend the meeting in support of your request, but that is not required.

Next week, I will discuss your request with my colleagues and will write up a short memo for the Commissioners that will include a recommendation on behalf of the Commission staff. All of the materials relating to your request will be mailed to the Commissioners on November 22. That day, the agenda and materials will be posted on the Commission's website, www.maine.gov/ethics.

If you have any questions, please call me at 287-4179.

Sincerely,


Jonathan Wayne
Executive Director

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21-A MRSA § 1020-A. FAILURE TO FILE ON TIME

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

[1995, c. 483, §15 (NEW) .]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (AMD) .]

B. An error by the commission staff; [1999, c. 729, §5 (AMD) .]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD) .]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2009, c. 190, Pt. A, §13 (AMD) .]

[2009, c. 190, Pt. A, §13 (AMD) .]

3. (TEXT EFFECTIVE UNTIL 8/1/11) Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[1995, c. 625, Pt. B, §5 (AMD) .]

3. (TEXT EFFECTIVE 8/1/11) Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk in a town or city that has chosen to be governed by this subchapter on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[2009, c. 366, §12 (AFF); 2009, c. 366, §6 (AMD) .]

4. Basis for penalties.

[2001, c. 470, §7 (AMD); T. 21-A, §1020-A, sub-§§4, 5 (RP) .]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]

B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]

C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.

[2007, c. 443, Pt. A, §22 (AMD) .]

5. Maximum penalties.

[2001, c. 470, §8 (AMD); T. 21-A, §1020-A, sub-§5 (RP) .]

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; section 1017, subsection 4; and section 1019-B, subsection 3; [2009, c. 190, Pt. A, §14 (AMD) .]

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E; [2003, c. 628, Pt. A, §4 (AMD) .]

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; [2003, c. 628, Pt. A, §4 (AMD) .]

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or [2003, c. 628, Pt. A, §4 (AMD).]

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]

[2009, c. 190, Pt. A, §14 (AMD) .]

6. Request for a commission determination. If the commission staff finds that a candidate or political committee has failed to file a report required under this subchapter, the commission staff shall mail a notice by certified mail to the candidate or political committee within 3 business days following the filing deadline informing the candidate or political committee that a report was not received. If a candidate or a political committee files a report required under this subchapter late, a notice of preliminary penalty must be sent to the candidate or political committee whose registration or campaign finance report was not received by 11:59 p.m. on the deadline date, informing the candidate or political committee of the staff finding of violation and preliminary penalty calculated under subsection 4-A and providing the candidate or political committee with an opportunity to request a determination by the commission. The notice must be sent by certified mail. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. The 14-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 14-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or political committee requesting a determination may either appear in person or designate a representative to appear on the candidate's or political committee's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[2009, c. 302, §5 (RPR) .].

7. Final notice of penalty. If a determination has been requested by the candidate or political committee and made by the commission, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the political committee.

If a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the commission.

[2009, c. 302, §6 (AMD) .]

8. Failure to file report. The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. The notice must be sent by certified mail. If a candidate fails to file a report after 2 notices have been sent by the commission, the commission shall send a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the notices required by this subsection is guilty of a Class E crime.

[2007, c. 443, Pt. A, §25 (AMD) .]

8-A. Penalties for failure to file report. The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

[2003, c. 628, Pt. A, §6 (NEW) .]

9. List of late-filing candidates. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

[1995, c. 483, §15 (NEW) .]

10. Enforcement. A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

[2009, c. 302, §7 (RPR) .]

SECTION HISTORY

RR 1995, c. 1, §10 (COR). IB 1995, c. 1, §15 (AMD). RR 1995, c. 2, §38 (COR). 1995, c. 483, §15 (NEW). 1995, c. 625, §B5 (AMD). 1999, c. 426, §§32,33 (AMD). 1999, c. 729, §5 (AMD). 2001, c. 470, §§7,8 (AMD). 2001, c. 470, §11 (AFF). 2001, c. 714, §PP1 (AMD). 2001, c. 714, §PP2 (AFF). RR 2003, c. 1, §14 (COR). 2003, c. 302, §4 (AMD). 2003, c. 448, §4 (AMD). 2003, c. 628, §§A3-6 (AMD). 2007, c. 443, Pt. A, §§21-25 (AMD). 2009, c. 190, Pt. A, §§13, 14 (AMD). 2009, c. 302, §§5-7 (AMD). 2009, c. 366, §12 (AFF). 2009, c. 366, §6 (AMD). MRSA T. 21-A, §1020-A, sub-§4 (AMD). MRSA T. 21-A, §1020-A, sub-§5 (AMD).